

FREQUENTLY ASKED QUESTIONS **ABOUT GANG INJUNCTIONS**

WHAT IS AN INJUNCTION?

An injunction is an order issued by a Judge directing a party to a lawsuit requiring them to perform an act or to refrain performing an act. Many people are familiar with "restraining orders" that are often issued in domestic relations cases. These are injunctions or court orders that "restrain" one party in a domestic relations case from doing some act. Injunctions have been used for many years in labor relations, civil rights, environmental pollution, and other kinds of lawsuits where money damages would not adequately protect the rights of a party.

WHAT IS A NUISANCE?

Nuisance is defined in Civil Code § 3479:

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

WHAT IS A PUBLIC NUISANCE?

Public Nuisance is defined in Civil Code § 3480:

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

HOW CAN AN INJUNCTION APPLY TO GANG ACTIVITIES?

The activities or conduct of the defendant gang in a gang injunction lawsuit amount to a public nuisance because shootings, robberies, beatings, stabbings, burglaries, and theft are "injurious to health," they are "an obstruction to the free use of property," and they certainly "interfere with the comfortable enjoyment of life or property."

The "illegal sale of controlled substances," is specifically mentioned in the Civil Code as a public nuisance. Clearly, gang graffiti constitutes a public nuisance because it damages property and it creates fear and intimidation.

What Kinds of Activities are Enjoined?

Here is a brief description of the specific activities that persons subject to the injunction cannot do in the Safety Areas. You will see that some of these activities – like selling illegal drugs – is illegal in or out of the Safety Areas. The other restrictions only apply to activities in the Safety Area. For example, a person subject to the order can't association with another gang member in the Safety Area but is free to associate outside the Safety Area and so forth.

Do Not Associate: can't drive, stand, sit, walk, gather or appear, anywhere in public view or anyplace accessible to the public, with any known member of the gang in the Safety Area – with specific exceptions.

Stay Away From Alcohol: except on license premises or inside private property – can't possess an open container, knowingly remain in the presence of anyone possessing an open container or within proximity of an open container of an alcoholic beverage.

Stay Away From Drugs: can't use illegal drugs or knowingly be in the presence of another person using illegal drugs.

No Firearms, Imitation Firearms, Or Dangerous Weapons: no firearm, imitation firearm, BB gun, any gas propelled type weapon, ammunition, illegal weapons, knives, clubs, baseball bats, or any other instrument prohibited by Penal Code Section 12020 anyplace in public view or accessible to the public.

No Graffiti or Graffiti Tools: self explanatory

No Trespassing: no person subject to this order shall be present on or in any property not open to the general public.

Obstruct Public Right-Of- Way: no person subject to this order shall obstruct the free passage of any person or vehicle on a public right-of-way.

No Intimidation: no person subject to this order shall confront, intimidate, annoy, harass, threaten, challenge, provoke, assault and/or batter any person.

Signaling and Evading: no person subject to this order shall act as a "lookout."

Gang Signs and Symbols: no person subject to this order shall use words, phrases, physical gestures, or symbols commonly known as "gang signs."

Obey Curfew: no person subject to this order shall be present in public view, in a public place or in any place accessible to the public, between the hours of 10:00 p.m. of any day and 5:00 a.m. of the following day – with specific exceptions.

WHAT ARE THE PENALTIES FOR VIOLATING THE INJUNCTION?

Every violation of the gang injunction is a misdemeanor under Penal Code § 166(a)(4). The maximum punishment for each violation is six months in county jail, a fine of \$1,000 or both.